

EXHIBIT 1

1

1 COURT REPORTER: Usual

2 stipulations?

3 MR. BOONE: Yes.

4 MR. BROCKWELL: Yes.

5

6 MARY P. STIRLING, of lawful age,

7 having first been duly sworn, testified as

8 follows:

9

10 EXAMINATION

11 BY MR. BROCKWELL:

12 Q. Could you state your name for the record,

13 please?

14 A. Mary P. Stirling, S-T-I-R-L-I-N-G.

15 Q. All right. And what does the P stand for?

16 A. Pamela.

17 Q. Ms. Stirling, have you seen this Notice of

18 Videotape Deposition before?

1 Collision Investigation?

2 A. I haven't seen that.

3 Q. You have not seen the fatal traffic and

4 collision investigation?

5 A. All I've seen is the accident report.

6 Q. So you weren't provided the full report from

7 Mr. Boone's office?

8 A. Wasn't aware there was another report.

9 Q. Is that something that you would like to

10 have?

11 A. Yes.

12 Q. If you knew that there were witness

13 statements in the report, would that be

14 significant to you?

15 A. I had the depositions from witnesses.

16 Q. You had depositions from eyewitnesses to the

17 accident?

18 A. Yes, I did.

19 Q. Well, the only eyewitnesses I'm aware of
20 that have been deposed were this afternoon.

21 A. I gave you this folder. It had them in
22 there.

23 Q. Well, I wrote down all the depositions in

1 that folder and they were Glen Clark, Don
2 Hammonds, Hazel Roby, Garland McClellan,
3 Mary Means, and David Justice. Are those
4 the ones you're talking about?

5 A. I'm sorry. I did. I looked at those at
6 this office. I sure did. I looked at those
7 depositions at this office and sat and read
8 them and made notes. That was the first day
9 I worked on the case. I came by here and
10 read those depositions.

11 MR. BOONE: I think it's not a
12 deposition. They hadn't been taken. You
13 just read my personal summary of what I
14 gathered from my investigator's interview of
15 witnesses.

16 THE WITNESS: I'm sorry. My
17 mistake.

18 Q. Is that something that you reviewed, is

19 Mr. Boone's summaries of --

20 A. Witness statements, yes.

21 Q. And is that something that's in your file?

22 A. No. I read them here at this office.

23 Q. Well, that is something, since you have

1 reviewed that, that is discoverable in this
2 case.

3 MR. BROCKWELL: And I'd ask
4 Mr. Boone that he provide those, anything
5 that Ms. Stirling has reviewed, please.

6 MR. BOONE: Well, I'm -- at this
7 point I object to it, but I'll see if I can
8 recollect what she reviewed. And we'll try
9 to -- we'll make an issue -- we'll either
10 object to produce it -- and I'll let you
11 know whether I will.

12 MR. BROCKWELL: Will you do that
13 quickly?

14 MR. BOONE: Oh, yeah.

15 MR. BROCKWELL: Do you have any
16 basis for objecting to producing materials
17 that she has reviewed in this case?

18 MR. BOONE: Yeah. Other than

19 potentially on the onset is attorney

20 work-product and privilege, my

21 interpretations of what witnesses would say.

22 MR. BROCKWELL: Well, I -- we can

23 take --

1 MR. BOONE: We don't -- you can
2 file an objection -- if I decide to say I'm
3 not going to give it to you, then you can
4 file an objection and say I should. We'll
5 deal with it swiftly.

6 Q. Ms. Stirling, as part of this Montgomery
7 Police Department Fatal Traffic Collision
8 Investigation, there are some thumbnail
9 photos here. Can you please flip through
10 those and tell me if they're the same as the
11 pictures you believe are from the city
12 engineer's office?

13 (Witness reviews photographs.)

14 A. No, they aren't. No, I don't have these
15 photographs.

16 Q. And so those are not photographs you
17 reviewed prior to today?

18 A. No.

19 Q. And so is it fair to say that the police
20 photographs that are part of the police
21 investigation are not something that you
22 have relied on in forming your opinions in
23 this case?

1 A. No.

2 Q. That is -- that is fair to say or it's not
3 fair to say?

4 A. That is fair to say.

5 Q. All right.

6 MR. BROCKWELL: Well, in that case,
7 then, I don't believe I have these
8 photographs we've been discussing and so
9 what I'll do is mark the CD as Defendants'
10 Exhibit 8 and ask our court reporter to
11 please make a copy of the CD to attach as an
12 exhibit.

13 (Defendants' Exhibit 8 was
14 marked for identification.)

15 Q. During that line of questioning, I believe
16 we established that there are some other
17 documents you've looked at in this case that
18 are not contained in your file; is that

19 correct?

20 A. Yes.

21 Q. And it's your belief that those -- I think

22 you said that they were witness depositions;

23 is that right?

1 A. I was wrong. I guess they're witness

2 statements, I guess.

3 Q. Well, you've -- you're familiar with a

4 deposition, aren't you?

5 A. Yes. It had been a while and I worked

6 several cases since. And I was looking for

7 them and couldn't find them and then I

8 remembered that I had read them here and I

9 just . . .

10 Q. Well, did they look to you like a

11 transcription of like a recorded statement

12 or something like that?

13 A. No. I took notes from them. I think you

14 saw them, didn't you?

15 Q. Are your notes -- you took notes that are

16 part of your file today?

17 A. Yes, I did. They should be -- I think I

18 labeled it even deposition notes. I was

19 wrong. It wasn't a deposition.

20 Q. I've got it in here.

21 A. Okay.

22 Q. Now, this next CD, can you tell me, please,

23 what it is?

19 opinions?

20 A. Yes.

21 Q. Do you keep a list of documents that you are

22 provided in a case?

23 A. Not a list. I keep them all in the file.

1 Q. You keep them all except for the witness
2 statements that we talked about earlier in
3 the file?

4 MR. BOONE: Objection to form.

5 She's never had possession of them.

6 Objection to form.

7 A. I've never had possession of those. I've
8 read them here in this office and made notes
9 from them.

10 Q. Okay. So you don't consider that you've
11 been provided with those?

12 MR. BOONE: She hasn't been
13 provided with those. But go ahead.

14 A. I haven't been provided them, no.

15 Q. You have been provided access to them, but
16 you have not been allowed to leave this
17 building with copies of them; is that fair
18 to say?

19 A. That's true.

20 Q. Are there any other documents like those

21 witness statements that you have been

22 provided access to but that you do not have

23 copies of?

1 A. No.

2 MR. BOONE: Can I have a continuing
3 objection to -- I don't believe they were
4 witness statements. I think they were my
5 summaries of ours of what we expected a
6 witness to say from what they told us. But
7 I don't think a witness statement is a fair
8 characterization. I want to preserve that.
9 I might be wrong about that.

10 MR. BROCKWELL: Well, that's fine.
11 I think that Ms. Stirling has called them
12 witness depositions. I know that you've
13 stated they may not have been that. All
14 we're asking for is whatever she's looked
15 at.

16 MR. BOONE: I understand.

17 Q. And, Ms. Stirling, you are not disputing
18 that Glen Clark did indeed call the Florida

1 counsel asked her, I believe I have a right

2 now to ask her. But go ahead.

3 Q. Well, tell me this: What is significant to

4 your expert opinions in this case?

5 A. I think it's significant that Mr. Stephens

6 ran into the bridge abutment, went off the

7 bridge, and landed on I-65 south and slid

8 into Mr. Roby's car, and as a result

9 Mr. Roby and Mr. Stephens are dead.

10 Q. And as part of -- part of what you stated

11 here is based on other evidence; right?

12 A. Yes.

13 Q. And it's based on photographs you've looked

14 at; is that correct?

15 A. Yes.

16 Q. And is it based on anything else that you've

17 done besides look at photographs?

18 A. Yeah. It's based on the statements of the

19 eyewitnesses --

20 Q. All right.

21 A. -- that I read.

22 Q. And tell me what else.

23 A. And the police report.

1 Q. Anything else?

2 A. Basically, that's it.

3 Q. Okay. And so I just want to clear things up

4 here, if we can. That you are being offered

5 as an expert in accident reconstruction; is

6 that right?

7 A. Yes.

8 Q. And you have reached opinions as an expert

9 on how the accident that is the subject of

10 this case occurred; is that correct?

11 A. Yes.

12 Q. And those opinions are contained in the

13 disclosure of your opinions that have been

14 filed in this case; is that correct?

15 A. Yes.

16 Q. Do you have any opinions that are not

17 contained in these disclosures?

18 A. No.

1 MR. BOONE: Objection to form.

2 Q. All right. I'd like to go through some of

3 these individually, ma'am. You state --

4 A. Can we take a break?

5 Q. That's fine.

6 (Short recess.)

7 Q. Okay. Before we took a break, we were

8 starting to go into the individual opinions

9 that you have. And I had asked you, I

10 think -- I don't know what I asked you to

11 end it off, frankly. I'll ask you this now:

12 You have an opinion that Mr. Ronald Roby was

13 traveling south on Interstate 65 at the time

14 of the accident. And I'll ask you what the

15 basis of that opinion is.

16 A. Mr. Ladon Dansby -- I read these in

17 Mr. Boone's office the first day I worked in

18 this case. Mr. Ladon Dansby was on I-85

19 also behind Mr. Stephens' truck and
20 witnessed him strike the barrier and fall
21 over. Mr. Jermale Ayers was traveling on
22 I-85 and going to Day Street and
23 Mr. Stephens' truck was to his left and he

1 saw the truck hit the barrier and go over.
2 A Ms. Lisa Warr also witnessed the truck
3 strike the barrier and go over. And none of
4 these people saw Mr. Roby's vehicle.

5 Also --

6 Q. Do they specifically state that they did not
7 see it or did they just not mention it?

8 A. Well, they didn't mention it. Also --

9 Q. And -- I'm sorry.

10 A. You asked me what all I based that on.

11 Q. Please.

12 A. These photographs that I did print off of
13 the vehicle show no contact damage to the
14 right side of Mr. Roby's vehicle. And I
15 believe had he been struck by the truck and
16 taken along the retaining wall that there
17 would have been damage to the right side of
18 his truck. You can also tell by looking at

1 Q. But you have looked at photographs of it as
2 well?

3 A. Yes.

4 Q. And, again, those are photographs taken by
5 someone other than you?

6 A. Yes.

7 Q. That next opinion I want to ask you about is
8 that you opine that Craig Stephens was
9 operating his vehicle in excess of 59 miles
10 per hour as he went over the barrier guard.

11 What do you base that opinion on?

12 A. Witnesses who said that he was -- some said
13 he was doing 60 to 65, some said 80.

14 Q. Was there any reason that you phrased it
15 like that, in excess of 59 miles per hour?

16 A. Well, the initial critical speed of the
17 curve was 59 when I was using the radius;
18 that was approximate given to me by the city

19 engineer's office. And then we got the
20 radius of the curve from the Alabama DOT,
21 the actual plans, and it was low. The
22 radius was a little bit larger, so that
23 lowered the speed for that curve. But at

1 that time, that's what I was basing that on.

2 And the witness statements that said 60 or
3 better.

4 Q. Okay. So part of the basis of the 59 miles
5 per hour was the critical speed you
6 determined for that curve; right?

7 A. Yeah.

8 Q. And I think we've already determined earlier
9 that the critical speed for that curve is
10 irrelevant to this case; is that right?

11 A. Yes.

12 Q. And you have -- I think you also testified
13 that it's impossible to make a calculation
14 as to Mr. Stephens' speed for just going
15 straight over the barrier; is that correct?

16 A. Yes.

17 Q. And so removing the critical speed for the
18 curve from the equation, what is the in

19 excess of 59 miles per hour based on?

20 A. The witnesses.

21 Q. And are those the witness statements or

22 witness depositions that you read here in

23 Mr. Boone's office but do not have a copy

1 of?

2 A. Yes.

3 MR. BOONE: Objection to form.

4 Q. And while we're on that, could you look in

5 your notes that you've referred to a few

6 times today and tell me the names of each

7 eyewitness whose statement or deposition you

8 read?

9 MR. BOONE: Objection to form.

10 A. Bridgette Harris, Andrew Davis, Corporal

11 Green, Ladon Dansby, Richard Patterson,

12 Stephen Hornsby, Michael Boozer, Jermale

13 Ayers, Julie Pollard, Johnny Pollard, and

14 Lisa Warr.

15 Q. There was an actual statement made by

16 Corporal Green in the materials that you

17 read?

18 MR. BOONE: Objection to form. For

19 the record, that same objection. I don't
20 remember if it was my summary, the
21 investigator's summary, or what it was. You
22 keep using the term, so I'd just like to
23 have a continuing objection, a statement or

1 a deposition.

2 MR. BROCKWELL: And I understand.

3 I'll give you a standing objection to what

4 we call it, because frankly I don't know

5 what they are.

6 MR. BOONE: I don't recall what it

7 is either.

8 MR. BROCKWELL: All I know is that

9 she's called it a witness deposition.

10 MR. BOONE: Right. I don't have an

11 objection to that. I just want to make sure

12 we're not agreeing to that just because

13 that's the term you all use.

14 MR. BROCKWELL: Right.

15 A. Well, I misspoke when I said deposition.

16 MR. BOONE: And if it is, then, you

17 know, we're going to give you whatever we

18 give you and we'll know what it is.

19 I think he asked you a question. I

20 don't remember what it is.

21 A. I took it at the same time as I took the

22 other notes and between two of the other

23 witnesses, so I'm assuming that it was a

1 statement that was in there also.

2 Q. Okay. As far as you know from your notes

3 and from your memory, the statement --

4 that's my term -- of Corporal Green was the

5 same format as the statements of the other

6 witnesses?

7 A. Yes.

8 Q. Did you ask for copies of these witness

9 statements?

10 A. I was told -- I asked if there were witness

11 statements and I was told that I could come

12 by here and read them, but I couldn't get a

13 copy.

14 MR. BOONE: I don't remember.

15 Q. Now, one of your opinions is that the truck,

16 meaning the truck driven by Craig Stephens,

17 collided with Ronald Roby's vehicle; is that

18 correct?